IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

Vinod Chintamani Malshe

Application No.: 10/552,422

Filed: October 7, 2005

Confirmation No.: 6676

For: NOVEL BIODEGRADABLE ALIPHATIC POLYESTERS AND PHARMACEUTICAL COMPOSITIONS AND APPLICATIONS THEREOF

Art Unit: 1615

Examiner: Caralynne E. Heln

I hereby certify that this correspondence is being submitted via Electronic Filing System or facsimile (571-273-8300) or USPS to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:

May 6, 2009
Date of Transmission

Tamara Daw
Name of Person Transmitting Correspondence

Signature *Date* 5/6/2009

MAIL STOP AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE

Sir:

In response to the Office Action dated March 6, 2008 and the Notice of Non-Compliant Amendment dated August 26, 2008, please enter the following amendments and consider the following remarks.

Amendments to the specification begin on page 2.

Amendment to the claims begins on page 3.

Remarks begin on page 8.

AMENDMENTS TO THE SPECIFICATION:

At page 1, lines 1-2 please amend the title as follows:

~~NOVEL~~ BIODEGRADABLE ALIPHATIC POLYESTERS AND PHARMACEUTICAL COMPOSITIONS AND APPLICATIONS THEREOF

IN THE CLAIMS

Amendments to the Claims:

This listing of claims will replace all prior versions, and listings, of claims in the application. Where claims have been amended and/or canceled, such amendments and/or cancellations are done without prejudice and/or waiver and/or disclaimer to the claimed and/or disclosed subject matter, and the applicant and/or Applicant reserves the right to claim this subject matter and/or other disclosed subject matter in a continuing application.

Listing of Claims:

What is claimed is:

1. (Currently amended) A pharmaceutical composition, comprising:

at least one pharmaceutically active ingredient; and

poly(ethylene sebacate),

wherein said pharmaceutical composition is in the form of different drug delivery systems, wherein said drug delivery systems comprise one or more of the following structures: drug loaded microparticles, microcapsules, nanoparticles, molded implants, coated granules, films, coated tablets, ophthalmic inserts, fibers, ligatures or sutures

~~Pharmaceutical compositions comprising at least one pharmaceutically active ingredient and biodegradable aliphatic polyesters derived from fatty diacids and fatty diols both with even number of carbon atoms; particularly polyethylene sebacate which is thermally stable, non-toxic, and metabolized by normal lipid metabolism in the form of different drug delivery systems such as drug loaded microparticles, nanoparticles, molded implants, coated granules, injectable sustained release particles, stents, films, matrix tablet, coated tablets, dry syrup, mouth dissolving tablets, microparticles dispersed in gels, taste masked formulation, inserts (ophthalmic), fibers, ligatures and sutures.~~

2. (Currently amended) The pharmaceutical composition as claimed in claim 1 wherein molecular weight of said poly(ethylene sebacate) is in the range of 3,000 to 30,000~~The compositions as claimed in claim 1, wherein the molecular weight of said polyethylene sebaccate is in the range of 3,000 to 30,000~~.

3. (Currently amended) The pharmaceutical composition as claimed in claim 1, wherein said pharmaceutically active ingredient comprises anti-hypertensives, cardiovascular agents, analgesics, steroids, physiologically active peptides and/or proteins, anti-cancer agents, antibiotics, fibrinolytics, anti-inflammatory agents, expectorants, muscle relaxants, epilepsy remedies, anti-ulcerative agents, anti-hyperchondriac agents, anti-allergic agents, diuretics diabetes curatives, hyperlipidemic remedies, anticoagulants, hemolytic agents, anti tubercular agents, hormones, anesthetic antagonists, osteoclastic suppressants, osteogenic promotives, angiogenesis suppressors, mydriatics, myotics, or glaucoma therapy and/or mixtures thereof~~The compositions as claimed in claim 1, wherein said pharmaceutically active ingredient is selected from anti-hypertensives, cardiovascular agents, analgesics, steroids, physiologically active peptides and / or proteins, anti-cancer agents, antibiotics, fibrinolytics, anti-inflammatory agents, expectorants, muscle relaxants, epilepsy remedies, anti-ulcerative agents, anti-hyperchondriac agents, anti-allergic agents, diuretics diabetes curatives, hyperlipidemic remedies, anticoagulants, hemolytic agents, anti tubercular agents, hormones, anesthetic antagonists, osteoclastic suppressants, osteogenic promotives, angiogenesis suppressors, mydriatics, myotics, glaucoma therapy and or mixtures thereof~~.

4. (Currently amended) The pharmaceutical composition as claimed in claim 1, wherein the pharmaceutically active ingredient to poly(ethylene sebacate) ratio is in the range from 95:5 to 1:99~~The compositions as claimed in claim 1, wherein the drug to polymer ratio in said compositions is from 95:5 to 1:99~~.

5. (Cancelled)

6. (Currently amended) The pharmaceutical composition as claimed in claim 1, wherein said drug delivery systems comprise molded implants ~~The compositions as claimed in claims 1 to 4, wherein said drug delivery systems are molded implants containing drug~~.

7. (Currently amended) The pharmaceutical composition as claimed in claim 1, wherein said drug delivery systems comprise coated granules, prepared by coating the granules with 1-5% solution of said poly(ethylene sebacate) in a suitable solvent ~~The compositions as claimed in claims 1 to 4, wherein said drug delivery systems are coated granules, prepared by coating the granules with 1-5% solution of said biodegradable aliphatic polyester in a suitable solvent~~.

8. (Currently amended) The pharmaceutical composition as claimed in claim 1, wherein said drug delivery systems comprise injectable microparticles suitable for sub-cutaneous, intra-muscular, intravenous or periodontal administration ~~The compositions as claimed in claims 1 to 4, wherein said drug delivery systems are injectable sustained release microparticles suitable for sub-cutaneous, intra-muscular or periodontal administration for sustained action for the required period~~.

9. (Cancelled)

10. (Currently amended) The pharmaceutical composition as claimed in claim 1, wherein said drug delivery system comprises microparticles and/or nanoparticles dispersed in a gel formulation capable of periodontal administration ~~The compositions in the form of microparticles dispersed in gel as claimed in claims 1 to 4, wherein said drug delivery system in gel form is prepared by incorporating the micro particles in a gel suitable for the treatment of periodontitis~~.

11. (Currently amended) The pharmaceutical composition as claimed in claim 1, wherein said drug delivery system comprises film ~~The compositions in the form of films as claimed in claims 1 to 4, wherein said drug delivery system is self supporting drug loaded films~~.

12. (Currently amended) The pharmaceutical composition as claimed in claim 1~~The compositions in the form of microcapsule as claimed in claims 1 to 4~~, wherein said microcapsules comprise [[is]]sustained release microcapsules.

13. (Currently amended) The pharmaceutical composition as claimed in claim 12~~The compositions as claimed in claim 12~~, wherein said microcapsules are ~~can be~~ produced in an oil/water suspension system, in which the drug is embedded within the polymer microparticles forming the oil phase, and stabilizing agents for the microparticles forming an ~~the~~ aqueous phase.

14. (Currently amended) The pharmaceutical composition as claimed in claim 13~~The composition as claimed in claim 13~~, wherein the stabilizing agents comprise ~~are selected from~~ polyvinyl alcohol, polyvinyl pyrrolidone, alginate, gelatin, methyl cellulose, polyoxyethylene derivatives of sorbitan fatty esters and/or polyoxyethylene fatty ethers.

15. (Currently amended) The pharmaceutical composition of claim 1, wherein a particle size of said nanoparticles is in the range of 10 nanometers to 500 nanometers ~~The compositions as claimed in claims 12 to 14, wherein particle size of microparticles is in the range of 10 nm to 1000 microns depending on the type and concentration of stabilizer and drug to polymer ratio used in the formulation.~~

16. (Currently amended) The pharmaceutical composition as claimed in claim 1, wherein said drug delivery systems comprise lipase capable of modifying release of said pharmaceutically active ingredient ~~The compositions as claimed in claims 1 to 15, wherein said drug delivery systems are with or without the addition of lipase to modify the drug release~~.

17. (Currently amended) The pharmaceutical composition as claimed in claim 1, wherein said pharmaceutical composition is capable of being administered by either oral, ophthalmic, parenteral, mucosal, or transdermal route ~~The compositions as claimed in claims 1 to 16, wherein said pharmaceutical compositions could be administered by either oral, ophthalmic, parenteral, mucosal or transdermal route~~.

18. (Currently amended) The pharmaceutical composition as claimed in claim 1, further comprising [[P]]pharmaceutical compositions comprising at least one pharmaceutically active ingredient and biodegradable aliphatic polyesters derived from fatty diacids and fatty diols both with even number of carbon atoms; and particularly polyethylene sebaccate which is thermally stable, non-toxic, and metabolized by normal lipid metabolism ~~in the form of different drug delivery systems as substantially described herein with reference to foregoing examples 1 to 18~~.

REMARKS

The above-referenced patent application has been reviewed in light of the Office Action and the Notice of Non-Compliant Amendment referenced above. Please enter the following amendments and consider the following remarks.

Reconsideration of the above-referenced patent application in view of the following remarks is respectfully requested.

Claims 1-18 are pending in the application. Claims 1-5, 6-8, and 10-18 have amended and claims 5 and 9 have been cancelled without prejudice. The amendment is fully supported by the disclosure filed on October 7, 2005. No new matter has been introduced.

Informalities

Applicant notes that the Examiner crossed out reference FR 2787730A, dated 6/30/2000, which applicant included in an IDS filed on August 14, 2007. Apparently, the Examiner did not consider this reference in the last Office Action mailed March 6, 2008.

Objection to the Title

The Examiner has objected to the title and required a new title due to the term "novel".

Accordingly, Applicant has amended the title to remove the term "novel". Applicant respectfully submits that the title is now in proper form.

Claim objections

Claims 5-18 have been objected to for being in improper multiple dependent form.

Applicant has cancelled claims 5 and 9 and amended claims 6-8 and 10-18: None of the amended claims comprise multiple dependent form. Accordingly, Applicant respectfully submits that this objection is moot in view of the claim amendments.

Claim rejections – 35 USC §112

Claim 1 is rejected under 35 U.S.C. 112 for indefiniteness for use of the term "such as".

Accordingly, Applicant has amended the title to remove the term "such as". Accordingly, Applicant respectfully submits that this objection is moot in view of the claim amendments.

Claim rejections – 35 USC §102

Claims 1, 3 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Shalaby et al. (U.S. Patent No. 4,186,189).

Applicant respectfully submits the Examiner has not established that the cited references disclose all of the elements of independent claim 1. The Examiner is kindly reminded that the Examiner's initial burden of factually supporting any *prima facie* case of anticipation requires that the prior art reference must teach every element or limitation of a claim. See MPEP § 2131. For example, Examiner has not established that Shalaby discloses:

> *... a pharmaceutical composition comprising poly(ethylene sebacate);*

as recited in amended claim 1. At page 4 of the present Office Action, the Examiner has characterized Shalaby as follows:

> ... Shalaby et al. teach a pharmaceutical composition with one or more drugs and the absorbable (biodegradable), aliphatic polyester, poly(alkylene oxalate)...

However, Applicant respectfully submits that the Examiner has not addressed "*a pharmaceutical composition comprising poly(ethylene sebacate)*" as recited in amended claim 1. For at least this reason, Applicant respectfully submits that amended independent claim 1 and dependent claims 2-4, 6-8, and 10-18 are not anticipated or rendered obvious by the cited document. Thus, Applicant respectfully requests that the rejection be withdrawn.

Claim rejections – 35 USC §103

To successfully make a *prima facie* rejection under 35 USC § 103, the Examiner must show that Applicant's claimed subject matter would have been obvious to one of ordinary skill in the art pertinent to Applicant's claimed subject matter at the time it was made. See KSR International, Co. v. Teleflex, Inc., 127 S.Ct. 1727 (decided April 30, 2007). Some of the factors to consider in this analysis include the differences between the applied documents and Applicant's claimed subject matter, along with the level of skill associated with one of ordinary skill in the art pertinent to Applicant's claimed subject matter at the time it was made. One way in which an Examiner may establish a *prima facie* case of unpatentability under 35 USC § 103 would be to show that three basic criteria have been met. The Examiner, therefore, first, should show that the applied document(s), alone or in combination, disclose or suggest every element of Applicant's claimed subject matter. Second, the Examiner should show that there is a reasonable expectation of success. Finally, the Examiner should show that there was some suggestion or motivation, either in the applied document(s) themselves or in the knowledge generally available to one of ordinary skill in the art, to, in this case, modify or combine the applied document(s). The motivation or suggestion and the reasonable expectation of success should be found in the prior art, and should not be based on Applicant's disclosure. See In re Vaeck, 947 F.2d 488, 20

USPQ2d 1438 (Fed. Cir. 1991); See MPEP § 2142; 2143 - § 2143.03 (regarding decisions pertinent to each of these criteria). It is respectfully asserted that the Examiner has not met this standard.

Furthermore, on October 10, 2007, the USPTO published in the Federal Register its Examination Guidelines under 35 USC § 103 in view of the KSR decision, cited above. These guidelines contain a number of relevant points. In particular, the new Guidelines state that an Examiner must articulate a reason or rationale to support an obviousness rejection. Specifically, Examiner's must articulate findings as to the scope and content of the prior art to support the obviousness rejection being made. The Examiner should focus on the state of the art and not on impermissible hindsight (e.g., from inappropriate use of Applicant's disclosure). Specifically, Examiners need to account for all claim limitations in the rejections, either by indicating where each limitation is shown by the applied documents or by providing an explanation of how the document is relevant to an obviousness determination despite the limitation not being shown. Thus, Examiners must explain reasoning that provides a nexus between the factual findings and the legal conclusions of obviousness. It is respectfully asserted that the Examiner also has not met these standards.

As discussed above, the applied documents do not provide, inherently or otherwise, all of the elements of the pending claims. Furthermore, the documents applied by the Examiner do not cure this deficiency. For at least these reasons, Applicant respectfully asserts that the Examiner's rejection of the claims is improper.

Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shalaby et al.

Applicant respectfully submits that, for the at least the reasons presented above with respect to the rejection of claim 1 under 35 U.S.C. 102, Shalaby fails to teach or suggest all the claim limitations of claim 1. Accordingly, Applicant respectfully submits that claim 1 is not rendered obvious in view of Shalaby and, for at least this reason, respectfully requests withdrawal of the rejection of claim 1 under 35 U.S.C. 103(a).

Claims 3-4, 6-8, and 10-18 are similarly not obvious, at least on the same or similar basis as claim 1. Thus, Applicant respectfully requests withdrawal of this rejection.

Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Penhasi (U.S. Publication No. 2003/0208259) in view of Farachi et al. (U.S. Patent No. 6,562,939) and Zhu et al. (Chinese Chemical Letters 2001 12(7):589-592).

Assignee respectfully submits the Examiner has not established that the documents disclose all of the elements of independent claim 1. For example, Examiner has not established that the proposed combination discloses:

> ... *wherein said pharmaceutical composition is in the form of different drug delivery systems, wherein said drug delivery systems comprise one or more of the following structures: drug loaded microparticles, microcapsules, nanoparticles, molded implants, coated granules, films, coated tablets, ophthalmic inserts, fibers, ligatures or sutures.*

as recited in amended claim 1. At page 6 of the present Office Action, the Examiner points to Penhasi as disclosing use of a stent, stating:

> Penhasi teaches a stent with a polymer and drug (see paragraph 22-24; instant claim 1). Specifically Penhasi teaches the drug being incorporated in a polymer matrix where, polyethylene sebacate is taught as one of the preferred polymers (paragraph 35 line 33-34; instant claims 1 and 2).

However, Applicant respectfully submits that the Examiner has not established that the stent of Penhasi shows "*drug delivery systems*" as recited in amended claim 1. More specifically, the Examiner has not established that the stent of Penhasi shows "*drug loaded microparticles, nanoparticles, molded implants, coated granules, films, coated tablets, ophthalmic inserts, fibers, ligatures or sutures*" as recited in amended claim 1. Additionally, Applicant respectfully submits that the Examiner has not established that Farachi and/or Zhu cure Penhasi of this deficiency. In the absence of the Examiner pointing to such a disclosure in the documents, Assignee requests that the rejection be withdrawn as the Examiner failed to establish that the documents render obvious claim 1.

Claim 2 is similarly not obvious, at least on the same or similar basis as claim 1. Thus, Applicant respectfully requests withdrawal of this rejection.

It is noted that claimed subject matter may be patentably distinguished from the cited documents for additional reasons; however, the foregoing is believed to be sufficient. Likewise, it is noted that the Applicant's failure to comment directly upon any of the positions asserted by the Examiner in the office action does not indicate agreement or acquiescence with those asserted positions.

Conclusion

In light of the foregoing, reconsideration and allowance of the claims is hereby earnestly requested.

Any fees or extensions of time believed to be due in connection with this amendment are enclosed herein; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account 50-3130.

Invitation for a Telephone Interview

The Examiner is invited to call the undersigned attorney, Brian D. Wichner, at (503) 439-6500 if there remains any issue with allowance.

Respectfully submitted,
Attorney for Applicant

Dated: May 6, 2009

/Brian D. Wichner/
Brian D. Wichner
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,422	10/07/2005	Vinod Chintamani Malshe	044-P001	6676

7590 03/17/2009

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EXAMINER	
HELM, CARALYNNE E	
ART UNIT	PAPER NUMBER
1615	
MAIL DATE	DELIVERY MODE
03/17/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of Abandonment	Application No.	Applicant(s)	
	10/552,422	MALSHE ET AL.	
	Examiner	Art Unit	
	CARALYNNE HELM	1615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on *26 August 2008*.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
   (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
   (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
   (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
   (d) ☒ No reply has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
   (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
   (b) ☐ The submitted fee of $_____ is insufficient. A balance of $_____ is due.
   The issue fee required by 37 CFR 1.18 is $_____. The publication fee, if required by 37 CFR 1.18(d), is $_____.
   (c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
   (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
   (b) ☐ No corrected drawings have been received.

4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☒ The reason(s) below:

The last correspondence from the Office was returned as undeliverable due to address change not being filed appropriately in application. Applicant's representative was telephoned and notified of issue.

/Caralynne Helm/
Examiner, Art Unit 1615

/Tracy Vivlemore/
Primary Examiner, Art Unit 1635

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

PTO/SB/122 (01-06)
Approved for use through 12/31/2006. OMB 0651-0035
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Application

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Application Number	10/552,422
Filing Date	October 7, 2005
First Named Inventor	Vinod Malshe
Art Unit	1615
Examiner Name	Caralynne E. Heim
Attorney Docket Number	044.P001

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I am the:

☐ Applicant/Inventor

☐ Assignee of record of the entire interest.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).

☑ Attorney or agent of record. Registration Number 52,359

☐ Registered practitioner named in the application transmittal letter in an application without an executed oath or declaration. See 37 CFR 1.33(a)(1). Registration Number _____.

Signature /Brian D. Wichner, Reg. No. 52,359/

Typed or Printed Name Brian D. Wichner

Date | Telephone (503) 439-6500

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☑ *Total of one forms are submitted.

Electronic Acknowledgement Receipt

EFS ID:	4896601
Application Number:	10552422
International Application Number:	
Confirmation Number:	6676
Title of Invention:	Biodegradable Aliphatic Polyesters and Pharmaceutical Compositions and Applications Thereof
First Named Inventor/Applicant Name:	Vinod Chintamani Malshe
Correspondence Address:	Berkeley Law and Technology Group - 1700 N. W. 167th Place, Suite 240 - Beaverton OR 97006 US - -
Filer:	Brian D. Wichner/Tamara Daw
Filer Authorized By:	Brian D. Wichner
Attorney Docket Number:	044-P001
Receipt Date:	03-MAR-2009
Filing Date:	07-OCT-2005
Time Stamp:	17:21:41
Application Type:	U.S. National Stage under 35 USC 371

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Change of Address	044P001ChangeofCorrespAdd.pdf	50286 09107bcb35c82bc073c1cd2f44273fc06f1f6f6d	no	1

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New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office
If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,422	10/07/2005	Vinod Chintamani Malshe	044-P001	6676

7590 08/26/2008

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EXAMINER	
HELM, CARALYNNE E	
ART UNIT	PAPER NUMBER
1615	
MAIL DATE	DELIVERY MODE
08/26/2008	PAPER

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10552422	10/7/2005	MALSHE ET AL.	044-P001

EXAMINER	
CARALYNNE HELM	
ART UNIT	PAPER
1615	20080821

Berkeley Law and Technology Group
1700 N. W. 167th Place, Suite 240
Beaverton, OR 97006

DATE MAILED:

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Commissioner for Patents

The timely submission under 37 CFR 1.129(a) filed on June 6, 2008 is not fully responsive to the prior Office action because applicant has made amendments to the incorrect set of claims. The claims pending in the case are those contained in the amendment submitted to the International Bureau on February 4, 2005 and submitted with the 371 application on October 7, 2005.

Since the submission appears to be a *bona fide* attempt to provide a complete reply to the prior Office action, applicant is given a shortened statutory period of ONE MONTH or THIRTY DAYS from the mailing date of this letter, whichever is longer, to submit a complete reply. This shortened statutory period supersedes the time period set in the prior Office action. This time period may be extended pursuant to 37 CFR 1.136(a). If a notice of appeal and the fee set forth in 37 CFR 1.17(e) were filed prior to or with the payment of the fee set forth in 37 CFR 1.17(r), the payment of the fee set forth in 37 CFR 1.17(r) by applicant is construed as a request to dismiss the appeal and to continue prosecution under 37 CFR 1.129(a). The appeal stands dismissed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CARALYNNE HELM whose telephone number is (571)270-3506. The examiner can normally be reached on Monday through Friday 8-5 (EDT).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward can be reached on 571-272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Caralynne Helm/
Examiner, Art Unit 1615

/MP WOODWARD/
Supervisory Patent Examiner, Art Unit 1615

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,422	10/07/2005	Vinod Chintamani Malshe	044-P001	6676

7590 08/26/2008

Berkeley Law and Technology Group
1700 N. W. 167th Place, Suite 240
Beaverton, OR 97006

EXAMINER	
HELM, CARALYNNE E	

ART UNIT	PAPER NUMBER
1615	

MAIL DATE	DELIVERY MODE
08/26/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10552422	10/7/2005	MALSHE ET AL.	044-P001

Berkeley Law and Technology Group
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EXAMINER
CARALYNNE HELM

ART UNIT	PAPER
1615	20080821

DATE MAILED:

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Commissioner for Patents

The timely submission under 37 CFR 1.129(a) filed on June 6, 2008 is not fully responsive to the prior Office action because applicant has made amendments to the incorrect set of claims. The claims pending in the case are those contained in the amendment submitted to the International Bureau on February 4, 2005 and submitted with the 371 application on October 7, 2005.

Since the submission appears to be a *bona fide* attempt to provide a complete reply to the prior Office action, applicant is given a shortened statutory period of ONE MONTH or THIRTY DAYS from the mailing date of this letter, whichever is longer, to submit a complete reply. This shortened statutory period supersedes the time period set in the prior Office action. This time period may be extended pursuant to 37 CFR 1.136(a). If a notice of appeal and the fee set forth in 37 CFR 1.17(e) were filed prior to or with the payment of the fee set forth in 37 CFR 1.17(r), the payment of the fee set forth in 37 CFR 1.17(r) by applicant is construed as a request to dismiss the appeal and to continue prosecution under 37 CFR 1.129(a). The appeal stands dismissed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CARALYNNE HELM whose telephone number is (571)270-3506. The examiner can normally be reached on Monday through Friday 8-5 (EDT).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward can be reached on 571-272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Caralynne Helm/
Examiner, Art Unit 1615

/MP WOODWARD/
Supervisory Patent Examiner, Art Unit 1615